

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH  
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE EIGHTEENTH DAY OF MARCH  
TWO THOUSAND AND FIVE

PRESENT

**THE HON'BLE MR JUSTICE G. BIKSHAPATHY**

**and**

**THE HON'BLE MR JUSTICE P.S.NARAYANA**

**WRIT PETITION No: 2050 of 2005**

Between:

N. Appala Naidu, S/o Late Kanakaiah

Occu: Deputy Executive Engineer (Panchayat Raj (RTD), R/o, MIGIB 90 9<sup>th</sup>  
Sector, MVP. Colony, Visakhapatnam.

**..... PETITIONER**

AND

1 The Government of Andhra Pradesh, rep by its Secretary, Panchayat Raj &  
Rural Development Department, Secretariat, Hyderabad.

2 The Engineer-In-Chief, Panchayat Raj Department,  
Andhra Pradesh, Hyderabad.

3 The Executive Engineer, Panchayat Raj Department, Parvathipuram,  
Vizianagaram District.

4 The Managing Director, A.P. State Housing Corporation Ltd., Himayatnagar,  
Hyderabad.

**.....RESPONDENTS**

Petition under Article 226 of the Constitution of India praying that in the  
circumstances stated in the Affidavit filed herein the High Court may be pleased to  
issue an appropriate writ, order or direction more particularly one in the nature of  
Writ of Mandamus declaring the judgment of the Hon'ble Tribunal in O.A. No. 7363  
of 1998 dated 29-09-2004 is not in accordance with law and factual position and as  
such it is liable to be set aside consequently set side G.O. Rt. No. 1233, dated 18-8-

98 and further direct the respondents to verify actual loss caused to the Housing Corporation during the tenure of the petitioner and effect recovery for the loss and pass such other order or further order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

**Counsel for the Petitioner: MR.B.NAGESWARA RAO**

**Counsel for the Respondents: GP FOR SERVICES II**

The Court made the following:

**ORAL ORDER:-** (PER GB,J.)

The Writ Petition is filed assailing the order, dated 29.09.2004, passed by the A.P. Administrative Tribunal in O.A.No.7383 of 1998.

2. The petitioner was initially appointed as Deputy Executive Engineer in Panchayat Raj Department. Thereafter, he was sent on deputation to A.P. State Housing Corporation in 1986. During the year 1987, when he was working in the Corporation on deputation, the Managing Director, A.P. State Housing Corporation, issued a

charge memo, dated 13.12.1988, alleging certain irregularities. After the petitioner filed an objection, final orders, dated 12.04.1993, were passed by the Engineer-in-Chief, imposing the punishment of deferment of three increments without cumulative effect apart from recovery of a sum of Rs.3,16,195/-. Against the said order, the petitioner filed O.A.No.2422 of 1993.

3. The learned Tribunal, after considering the matter, disposed of the said O.A. with the following direction:

“Considering the submissions made by the learned advocate and the learned G.P. as the applicant has not availed the statutory remedy of filing an appeal before the Government, it would be appropriate if the applicant avails the statutory opportunity of filing an appeal before the Government instead of disposing of the O.A., on merits by the Tribunal. It is therefore, open to the applicant to file an appeal before the Government setting out his case within a period of 15 days from the date of receipt of this order. On receipt of the appeal from the applicant, the Government is directed to examine the appeal of the applicant on merits and dispose of the same. The contention of the applicant that ‘no financial loss was caused to the Housing Corporation and therefore the recovery of Rs.3,16,195/- is not proper’ may also be considered by the Government while disposing of the appeal. The O.A. is disposed of with the above directions.”

4. After considering the matter, the Government passed orders vide G.O.Rt.No.1233, dated 18.08.1998, rejecting the appeal filed by the petitioner. Aggrieved by the said Government Order, the petitioner filed O.A.No.7383 of 1998. The Tribunal dismissed the said O.A. on 29.09.2004, against which the present Writ Petition has been filed.

5. Learned counsel for the petitioner submits that the order passed by the Tribunal is wholly illegal and contrary to law. He also submits that the Government failed to consider as to how the loss was assessed when it is specifically mentioned that all the constructions were made and even the inmates started living in the houses already constructed and thus, he submits that no loss was caused to the A.P. State Housing Corporation. In such an event, recovery of a sum of Rs.3,16,195/- is wholly illegal and contrary to law. He further submits that as far as the punishment of

deferment of three increments without cumulative effect, he is not making any challenge against such punishment, but only the recovery aspect is being sought to be challenged in this Writ Petition.

6. The principal grievance of the petitioner is that there was no loss at all which was alleged to have been caused or sustained by the A.P. State Housing Corporation. Even otherwise, it is also not known as to how the loss was assessed without giving any notice to the petitioner. Under those circumstances, the learned counsel submits that the order relating to recovery of a sum of Rs.3,16,195/- is liable to be set aside.

7. We have heard the learned Government Pleader also.

8. As we see from the material placed before this Court, the order of recovery was passed to the extent of Rs.3,16,195/-, but we do not find any material to sustain this amount. Even the Corporation did not file any counter before the Tribunal establishing the loss caused to it. Under those circumstances, we find that the order of the authorities as confirmed by the Government relating to the recovery of a sum of Rs.3,16,195/- is liable to be set aside and the matter requires reconsideration taking into account the material that may be furnished by the A.P. State Housing Corporation.

9. Accordingly, the order is set aside to the extent of recovery of the amount and the matter is remitted back to the Government for fresh consideration and the Government shall issue notice to the petitioner as well as to the A.P. State Housing Corporation and assess the loss, if any, caused in accordance with the Rules after giving appropriate opportunity to the petitioner and pass appropriate orders. This exercise shall be done within a period of three months from the date of receipt of a copy of this order.

10. With the directions indicated above, the Writ Petition is disposed of. No costs.

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G. BIKSHAPATHY, J

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P.S. NARAYANA, J

Date: 18.03.2005

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To

- 1 The Secretary, Government of Andhra Pradesh,  
Panchayat Raj & Rural Development Department, Secretariat, Hyderabad.
  - 2 The Engineer-In-Chief, Panchayat Raj Department,  
Andhra Pradesh, Hyderabad.
  - 3 The Executive Engineer, Panchayat Raj Department, Parvathipuram,  
Vizianagaram District.
  - 4 The Managing Director, A.P. State Housing Corporation Ltd., Himayatnagar,  
Hyderabad.
- 5 2 CCs to the G.P. for Services-II, High Court of A.P., Hyderabad (OUT).
- 6 2 CD copies